

EXHIBIT 35

US District Court - Delaware
Chapter 11 - W.R. Grace

FINAL - November 1, 2007
Dr. Mark Peterson

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

CHAPTER 11

IN RE:
W.R. GRACE & CO., ET AL.,

DEBTORS.

CASE NO. 01-1139 (JFK)
JOINTLY ADMINISTERED

VIDEOTAPED DEPOSITION
Dr. Mark Peterson
November 1, 2007
Westlake Village, California
Lead: David M. Bernick, Esquire
Firm: Kirkland & Ellis

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1 **significant period of years, say more than five years?**

2 A. Most of the variation that occurs in asbestos
3 claiming settlements is because of behavioral effects,
4 not biological effects. Since it accounts for most of
5 the change, it's -- it's going to also have more error
6 in its prediction.

7 **Q. And that error in prediction becomes more**
8 **pronounced the greater the number of years you go out in**
9 **your prediction, correct?**

10 A. Clearly for -- the confidence in any forecast,
11 including these forecasts, is greater for years that are
12 more contemporaneous than those that are in the future,
13 and it's greater for years that have already occurred,
14 where we actually can sit and look at the -- what's
15 happened with other companies, what the litigation
16 environment is.

17 **Q. So are you --**

18 A. In this case, we have the ability to forecast
19 for the future, in quotes, for Grace, that began in 2001
20 and extend to today. We have more confidence in that
21 than we do for the forecast for the next five years, and
22 more than we do for the following five years, and so on.

23 **Q. Okay. Is there any quantitative or statistical**
24 **analysis that you've done to put -- to specify your**
25 **level of confidence in forecasting Grace claiming**

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1 **Q. One of the things would be the jurisdiction,**
2 **right?**

3 A. Yes, it can have an important effect.

4 **Q. The lawyer?**

5 A. Yes.

6 **Q. The merits of the case?**

7 A. Can't quantify that. In negotiations, of
8 course, the parties look at that, but merits is not a
9 variable that can be subject to economic analysis or the
10 kind of analysis I do.

11 **Q. Okay. Now, one of the things that also affects**
12 **the value of the case are the personal -- is the**
13 **personal side of the case: Is the plaintiff young or**
14 **old? Family, not family? What their background is? A**
15 **hundred different things that bear upon whether the jury**
16 **would find their case to be a compelling case.**

17 **Would you agree with that?**

18 A. No, I wouldn't agree with the examples you've
19 given. In most cases, the matter of the age and the
20 family consideration doesn't affect the settlement value
21 of the case. It would --

22 **Q. Go ahead.**

23 A. It would affect the case if, perhaps some of
24 them would, depending upon the disease and other
25 matters, if you're going to trial. But if it's a case

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1 that settles as most cases are settled, well before
2 trial, those, I don't think those matters are very
3 important.

4 **Q. You know the kind of personal factors that I'm**
5 **talking about?**

6 A. I know what you mentioned and I disagree that
7 they're important.

8 **Q. Okay, fine.**

9 **Do you actually -- have you actually done --**
10 **gathered any data to determine the effect of those**
11 **personal factors on settlement values?**

12 A. Yes.

13 **Q. Okay. What data do you have?**

14 A. We've looked at that again and again: Age.
15 Family matter, I haven't. Age. And age is not an
16 important -- despite the kind of folk wisdom about it,
17 age is generally not an important predictor of a
18 settlement value. It appears to be important in -- for
19 mesothelioma claims, or claims that are going to trial,
20 because it adds trial value, but for -- and that's kind
21 of -- that adds to the average, it adds to the higher
22 verdict. I believe, for the bulk of cases, the means
23 for every disease, age has little effect upon the value
24 of a claim.

25 **Q. Okay. Let's talk about an individual case that,**